

# MEMORANDUM

March 24, 2005

TO: THE LOS ANGELES COUNTY CLAIMS BOARD

FROM: DOUGLAS R. HART, Esq.  
Sheppard, Mullin, Richter & Hampton

ALBERT D. KELLY  
Principal Deputy County Counsel  
Probate Division

RE: Mario Sainz, et al. v. County of Los Angeles, Department of Coroner  
United States District Court - Central District of California  
Case No. CV04-4365 SJO (JWJx)

DATE OF  
INCIDENT: June 2001 through June 2004

AUTHORITY  
REQUESTED: \$100,000.00

COUNTY  
DEPARTMENT: Department of Coroner

---

## CLAIMS BOARD ACTION:

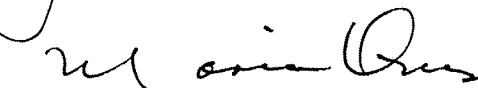
☒ Approve

☐ Disapprove

☐ Recommend to Board of  
Supervisors for Approval

  
\_\_\_\_\_, Chief Administrative Office  
**ROCKY ARMFIELD**

  
\_\_\_\_\_, County Counsel  
**JOHN F. KRATTLI**

  
\_\_\_\_\_, Auditor-Controller  
**MARIA M. OMS**

on April 4, 2005

## SUMMARY

This is a recommendation to settle Mario Sainz, et al. v. County of Los Angeles, Department of Coroner, Case No. CV04-4365 SJO (JWJx) for \$100,000.00.

This is a class action overtime pay lawsuit brought under the Federal Fair Labor Standards Act. The plaintiffs are 35 current or former Coroner Investigators and Coroner Investigator Trainees. They allege that they worked during scheduled but unpaid 1/2-hour lunch periods. They allege that they are due additional time and one-half overtime pay for all such lunch periods. They also allege that they are entitled to double damages. Under the Fair Labor Standards Act, as an alternative to an award of prejudgment interest, the plaintiffs can also recover double damages, consisting of an amount equal to unpaid overtime, if the Department of the Coroner was not acting in good faith when it allegedly violated the Act. Plaintiffs also seek recovery of their costs of suit and their attorney fees.

The Department proposes to settle this action for \$100,000.00. The settlement would include \$66,666.66 for plaintiffs and \$33,333.34 for their attorneys' fees and costs.

The plaintiffs' settlement amount of \$66,666.66 is allocated to individual plaintiffs in the settlement agreement.

## LEGAL PRINCIPLES

Overtime Pay Liability. The Federal Fair Labor Standards Act requires that employers pay time and one-half overtime pay to employees who are covered by the Act and who work more than 40 hours in a week.

County employees, including the plaintiffs in this action, are normally scheduled to work 40 hours per week. Any additional hours worked, such as a lunch period, which was not but should have been paid, will exceed the Fair Labor Standards Act 40-hour threshold for overtime pay.

The Fair Labor Standards Act requires that during meal breaks employees must be completely relieved from duty for at least thirty minutes. If employees are not completely relieved from duty during meal breaks, the meal break time is counted as work time. The employee is not relieved if the employee is required to perform any duties, whether active or inactive, during the meal period. The law calls for a highly fact-specific inquiry into whether the employee is completely relieved from duty and for what amount of time the employer must compensate the employee.

Statute of Limitations. The maximum statute of limitations under the Fair Labor Standards Act is three years. This lawsuit commenced June 17, 2004.

Double Damages. Plaintiffs are usually awarded either prejudgment interest or double damages to compensate them for loss of use of wages to which they were entitled. Employers will not be liable for double damages if they can prove that they acted in good faith and that they had reasonable grounds for believing that they were in compliance with the Fair Labor Standards Act.

## SUMMARY OF FACTS

For the three years prior to the filing of the complaint until approximately January 2004, Coroner Investigators were scheduled to work ten-hour shifts, which excluded a half-hour unpaid meal period. Coroner Investigator Trainees were scheduled to work either eight or ten-hour shifts, which excluded a half-hour unpaid meal period. On or about January 2004, the Department of Coroner changed its meal break policy so that Coroner Investigators' and Coroner Investigator Trainees' shifts included a paid meal period.

Plaintiffs allege that since approximately December 1993, they were required to work during part or all of their meal breaks. Plaintiffs contend that on multiple occasions they approached the Department regarding their meal breaks, but were denied relief. Plaintiffs seek back pay and liquidated damages for the missed meal periods. Plaintiffs also seek attorneys' fees and costs.

## DAMAGES

Plaintiffs have not disclosed any damage assessments. If this matter proceeds to trial, Plaintiffs will likely seek the following:

Time and one-half overtime pay:	\$ 448,000.00
Double damages:	\$ 448,000.00
Attorneys' fees and costs:	<u>\$ 175,000.00</u>
TOTAL:	\$1,071,000.00

The settlement includes:	
Total for all plaintiffs:	\$ 66,666.66
Maximum attorneys' fees and costs:	<u>\$ 33,333.34</u>
TOTAL:	\$ 100,000.00

## STATUS OF CASE

Trial has been set for May 3, 2005.

Expenses incurred by the County of Los Angeles in the defense of this case through January 31, 2005, are attorneys' fees of \$40,495 and \$1,270 in costs.

## EVALUATION

Litigating this matter through trial poses a number of difficulties. First, although this case is not complex, it presents complicated damages calculations. Moreover, the Department did not maintain records which clearly document whether Plaintiffs were provided meal periods or the duration of the meal periods. These factors, coupled with the number of plaintiffs in this action, present an uncertain potential for liability. However, given the possibility of double damages as well as the extensive attorneys' fees and costs associated with litigating this matter through trial, the County's potential exposure is considerable.

Accordingly, we join the Department of Coroner and our private counsel, Sheppard, Mullin, Richter & Hampton in recommending settlement of this action for \$100,000.00.

APPROVED:

  
DAVID B. KELSEY  
Assistant County Counsel